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RIGHTS OF PERSONS BELONGING TO NATIONAL OR ETHNIC, RELIGIOUS AND LINGUISTIC MINORITIES

Report of the Secretary-General

Introduction

1. The Commission on Human Rights, at its fifty-third session, adopted resolution 1997/16 entitled "Rights of persons belonging to national or ethnic, religious and linguistic minorities", in which the Commission urged States and the international community to promote and protect the rights of persons belonging to national or ethnic, religious and linguistic minorities as set out in the Declaration; requested the High Commissioner for Human Rights to continue efforts to improve the coordination and cooperation of United Nations programmes and agencies which deal with minority issues; called upon States to continue to include in their reports to human rights treaty bodies information on measures taken for the promotion and protection of the rights of persons belonging to minorities; called upon special representatives, special rapporteurs and working groups of the Commission to continue to give attention to situations involving minorities; and invited the Working Group on Minorities to submit a comprehensive report on its work to the Commission at its fifty-fourth session for the consideration of, inter alia, the extension of its mandate.

2. The Commission on Human Rights also requested the Secretary-General to report to it at its fifty-fourth session on the implementation of the resolution. The present report, submitted to the Commission on Human Rights, is complementary to the report of the Secretary-General submitted to the fifty-second session of the General Assembly (A/52/498).

3. Information contained in this report provides an overview of: the concluding observations relating to the rights of persons belonging to minorities of the Human Rights Committee and the Committee on the Rights of

the Child; the visit of the Special Rapporteur on religious intolerance to Australia in February/March 1997; the activities of the Special Rapporteur on the situation of human rights in the territory of the former Yugoslavia related to the human rights situation in the former Yugoslav Republic of Macedonia; and the work of the Working Group on Minorities.

I. TREATY BODIES

A. Human Rights Committee

4. During the period under review, some States parties have continued to provide information about the measures they have adopted to protect and promote the rights of persons belonging to minorities as provided for under article 27 of the International Covenant on Civil and Political Rights, namely, their right to enjoy their own culture, use their own language and practise and profess their own religion.

5. At its sixty-first session, held from 20 October to 7 November 1997, the Human Rights Committee considered the reports of Belarus (CCPR/C/84/Add.4), Iraq (CCPR/C/103/Add.2), Jamaica (CCPR/C/42/Add.15), Lithuania (CCPR/C/81/Add.10), Senegal (CCPR/C/103/Add.1) and the Sudan (CCPR/C/79/Add.85). In connection with the information submitted by the States parties on the implementation of article 27, the Human Rights Committee made comments and recommendations in the field of minority protection.

6. In its concluding observations on the report of Iraq (CCPR/C/79/Add.84), the Committee expressed concern about the situation of members of religious and ethnic minorities, as well as other groups which are the subject of discrimination in Iraq, in particular the Shi'ite people in the Southern Marshes and the Kurds. The Committee also regretted the lack of information provided by Iraq on the situation of their minorities, such as the Turkemen, Assyrians, Chaldeans and Christians, and on the enjoyment of their rights under articles 26 (equality before the law) and 27 of the Covenant. In this connection, the Committee drew attention to its General Comment No. 23 (50) on article 27 of the Covenant, and recommended that measures be taken to ensure full equality of rights for members of all religious groups as well as ethnic and linguistic minorities (paragraph 20).

7. In its concluding observations on the report of Lithuania (CCPR/C/81/Add.10), the Committee welcomed the establishment of institutions to deal with human rights issues, such as the Committee on Human and Civil Rights and Ethnic Minorities Affairs. The Committee expressed concern, however, at the registration requirements for religious organizations as well as distinctions made between different religious groups in this connection which could result in discrimination on religious grounds. The Committee stated that there should be no discrimination in law or in practice in the treatment of different religions (paragraphs 6 and 18).

8. In its concluding observations on the report of Senegal (CCPR/C/79/Add.82), the Committee expressed concern over the statement in the report that there are no minorities in Senegal and on the failure of the State party to provide information on the recognition and protection of religious and ethnic minorities. The Committee recommended that the State party take

legal and practical steps to recognize and protect religious and ethnic minorities, with a view to ensuring the rights guaranteed under article 27 of the Covenant. The Committee further suggested that the Government of Senegal take into consideration the Committee's General Comment on article 27 (No. 23 (50)) (paragraph 17).

9. In its concluding observations on the report of the Sudan (CCPR/C/79/Add.85), the Committee recognized that the lack of reconciliation between different racial, religious, cultural and legal traditions in the north and the south of the country appeared to be a factor affecting the implementation of the Covenant (paragraph 4). The Committee expressed concern that there is no recognition in law of the right to use local languages in official communications or administrative or court proceedings; and that religious minorities can be adversely affected by a range of discretionary administrative action which can include the destruction of schools and educational facilities under town planning regulations. The Committee suggested that emphasis be given to the needs of ethnic and religious minorities, wherever they reside in the Sudan, to pursue and develop their traditions, culture and language, as required by article 27 of the Covenant (paragraph 20).

10. The Committee further expressed concern at the fact that very few non-Muslims occupy judicial positions at any level. In this connection, the Committee recommended that measures be taken to improve the independence and technical competence of the judiciary by appointing qualified judges from among, inter alia, members of minorities (paragraph 21). Furthermore, the Committee regretted the documented cases of official action which interferes with the rights of non-Muslim religious denominations and groups to practise their religion and to carry out peaceful educational activities. The Committee recommended that a mechanism be established to protect minority religious groups from discrimination and action seeking to impede their freedom to teach and practise their religious beliefs (paragraph 23).

B. Committee on the Rights of the Child

11. At its sixteenth session, held from 22 September to 19 October 1997, the Committee on the Rights of the Child considered the reports of Australia (CRC/C/8/Add.31), the Czech Republic (CRC/C/11/Add.11), the Lao People's Democratic Republic (CRC/C/8/Add.32), Togo (CRC/C/3/Add.42), Trinidad and Tobago (CRC/C/11/Add.10) and Uganda (CRC/C/3/Add.40), in respect of which it commented on the information submitted on the protection and promotion of the rights of children belonging to minorities, within the context of, inter alia, article 30 of the Convention on the Rights of the Child.

12. In its concluding observations on the report of Australia (CRC/C/15/Add.79), the Committee expressed concern about the special problems still faced by Aboriginals and Torres Strait Islanders, as well as by children of non-English-speaking backgrounds, with regard to their enjoyment of the same standards of living and levels of services, particularly in the areas of education and health (paragraph 13). The Committee suggested that cooperation on the rights of the child between the authorities and non-governmental organizations as well as Aboriginal and Torres Strait Islander communities should be further strengthened (paragraph 24), and encouraged the State party

to take further steps to raise the standards of health and education of disadvantaged groups, including Aboriginals, Torres Straits Islanders and new immigrants (paragraph 32).

13. In its concluding observations on the report of the Czech Republic (CRC/C/15/Add.81), the Committee expressed concern about the need to strengthen the State party's limited capacity to develop specific disaggregated indicators to evaluate progress achieved and assess the impact of existing policies on all children, in particular children belonging to minority groups (paragraph 10). The Committee further expressed concern that no adequate measures have been taken to prevent and combat all forms of discriminatory practices against children belonging to minorities, including Roma children, and to ensure their full access to health, education and other social services (paragraph 15). In the light of the above, the Committee recommended that the State party undertake efforts to develop awareness-raising campaigns aimed at reducing discriminatory practices against the Roma population and envisage special programmes to improve the standard of living, education and health of Roma children (paragraph 32).

14. In its concluding observations on the report of Lao People's Democratic Republic (CRC/C/15/Add.78), the Committee noted that the measures adopted to promote widespread awareness of the principles and provisions of the Convention for both adults and children, in particular for minorities and in rural areas, are insufficient (paragraph 12). The Committee expressed concern at the low level of school enrolment and the high drop-out and repetition rates, and the disparities, inter alia, between ethnic groups in terms of enrolment and quality of education provided (paragraph 24). To this end, the Committee recommended that the State party implement measures to improve school enrolment and pupil retention, especially for children belonging to minorities, and that the State party take a more active approach to eliminate discrimination against certain groups, in particular, children belonging to minorities (paragraph 40).

II. SPECIAL RAPPORTEURS

A. Special Rapporteur on religious intolerance

15. The Special Rapporteur on religious intolerance, Mr. Abdelfattah Amor, in his report on his visit to Australia in February/March 1997 (E/CN.4/1998/6/Add.1), examined the treatment and guarantees of tolerance and non-discrimination based on religion or belief in the Australian legal system and in Australian society.

16. In his report the Special Rapporteur presented an overview of the various religious minority groups in Australia, in particular those belonging to the Muslim, Buddhist and Jewish religions. He noted that Muslims were free to carry out their religious activities, including religious services and traditions. Religious teaching was an important characteristic of Australian Muslims and the community counted 107 mosques and places of worship in the country. The Muslim community was characterized by experience based on sound community structures, including cultural centres, places of worship, schools and a network of associations enabling this minority not only to preserve its cultural and religious identity, but also to integrate in Australian society.

17. Lay and religious representatives of the Jewish community reported that they were able to carry out their religious activities freely. The Jewish community counts about 70 synagogues in Australia and no problems are encountered with regard to the construction of places of worship. According to the information received from Buddhists and Hindus, they may freely carry out their religious activities, including religious services and traditions. The teaching of Buddhism and Hinduism can be freely carried on in schools and Buddhist and Hindu communities have sufficient places of worship.

18. In his conclusions and recommendations, the Special Rapporteur considered that the situation in Australia with regard to tolerance and non-discrimination based on religion is generally very satisfactory. He attributed religious tolerance in Australia to the role of established politically driven institutions which endeavour to respond to the needs of society, including those of its minorities, and provide ways of alleviating all tensions. These institutions are: (a) a judicial system whose judges recognize the liberties of citizens, and a High Court which has interpreted the principle of religious neutrality in a conciliatory and balanced spirit (allowing public subsidies for denominational schools if granted without distinction); and (b) national institutions such as the Human Rights and Equal Opportunity Commission and the Ethnic Affairs Commission (paragraph 107), among others which hears complaints, provides redress for violations of the rights of religious minorities and organizes seminars to raise greater awareness of minority rights.

19. Australia's culture of tolerance and multicultural policy has thus enabled Muslim, Jewish, Hindu and Buddhist minorities, in particular, to flourish as minorities and enjoy the State's political, institutional and financial support so that claims for greater specificity are able to express themselves quite naturally. In this way Australia has managed to reconcile cultural, ethnic and religious diversity and the maintenance or even the development of community specificity with the integration without assimilation of these minorities in society.

B. Special Rapporteur on the situation of human rights in the territory of the former Yugoslavia

20. In her final report on the situation of human rights in the former Yugoslav Republic of Macedonia (E/CN.4/1998/12), the Special Rapporteur, Ms. Elisabeth Rehn, provided an overview of the situation and status of minorities in that country. The Special Rapporteur noted the basic principle of the Government's minority policy, which has been to support the fostering of the identities of minority groups while at the same time seeking to integrate them into Macedonian society. She noted that the minorities enjoy the benefits of several State-financed minority culture and art associations and several radio and television programmes and newspapers in minority languages. In addition, minority populations take part in political life although minority representation is well below the level commensurate with minorities' percentage of the population (paragraph 27).

21. The Special Rapporteur recorded in her report that all primary and secondary education in the former Yugoslav Republic of Macedonia is available in minority languages. Primary education is available in Macedonian, Albanian, Turkish and Serbian. In 1995, extracurricular instruction in the Vlach language was started, while in 1996 optional education in the Roma

language was introduced at four elementary schools (paragraph 29). In secondary education, which is not compulsory, instruction is offered in the Macedonian, Albanian and Turkish languages. The Special Rapporteur noted the positive trend resulting in an increase in the opportunities for minority populations to receive education in their own languages, and acknowledged the efforts of the Government to meet its obligations in this respect (paragraph 32).

22. As for higher education, the Special Rapporteur noted that minority students have demanded that the State provide full instruction at public universities in their mother tongues. The authorities, however, citing the need for integration of all Macedonian citizens into the society of the former Yugoslav Republic of Macedonia, have refused to honour the demands. One result was the founding of the unofficial "Tetovo University", an Albanian-language institution, which has consistently been denied State recognition. Almost all instruction at the higher education level is in the Macedonian language although Albanian and Turkish students do have the possibility to receive part of their instruction in their respective mother tongues (paragraph 35). The Special Rapporteur pointed out that controversy in the field of higher education will persist until the enactment of new Law on Higher Education, the draft of which is currently being considered.

23. With respect to freedom of religion, the Special Rapporteur noted that the issue of the inability of persons belonging to the Serb minority to exercise freely their religion and register religious communities of the Serb Orthodox Church remains unresolved. Serb Orthodox clergy continue to be prohibited from entering the country or holding services for the Serb population (paragraph 46).

24. In her conclusions and recommendations, the Special Rapporteur stressed that in a multi-ethnic society such as that in the former Yugoslav Republic of Macedonia, the human rights of minority populations require special attention. Despite the fact that certain areas of concern remain and additional measures should be taken by the Government, the Special Rapporteur commended the Government for its efforts in the field of minority rights (paragraph 59).

III. WORKING GROUP ON MINORITIES

25. From 26 to 30 May 1997, the Working Group on Minorities, established by the Commission on Human Rights in 1995, held its third session, thus completing its initial three-year mandate. During the three sessions, held in 1995, 1996 and 1997, the Working Group has carried on its work in accordance with the mandate entrusted to it, namely: to review the promotion and practical realization of the 1992 Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities; examine possible solutions to problems involving minorities; and recommend further measures for the promotion and protection of their rights.

26. The role of the Working Group has developed considerably during the period of its mandate. It is increasingly becoming a forum for dialogue which serves two interdependent purposes: firstly, the Working Group acts as a process by which Governments, minorities and scholars come together to discuss issues of concern and together seek solutions to problems identified. This leads to greater awareness about the differing perspectives on minority issues and consequently also increased understanding of the problems highlighted.

Secondly, it acts as a mechanism for the elaboration of the principles contained in the Declaration and for discussing peaceful and constructive solutions to problems involving minorities.

27. During the three sessions it has held, the contributions through oral presentations and working papers have promoted a better understanding of some of the principles contained in the Declaration, namely: the rights of persons belonging to minorities to speak their own language, to learn and be taught in their mother tongue, to profess and practise their own religion and to enjoy their own culture. More general issues relating to minorities, such as education rights, intercultural and multicultural education, the question of citizenship and the role of the media were also addressed by the Working Group. Many positive examples were provided relating to, for example, mechanisms for increased participation of minorities in national decision-making, the extent of State support for the promotion of minority languages, and methods of conciliation between various groups in society at the national and regional levels.

28. The Working Group is now one of the major activities of the United Nations in the field of minority protection. Prior to each session, the Working Group plans to organize a seminar in order to focus on an issue of particular concern and arrive at concrete recommendations. Prior to the third session, the Working Group organized an expert seminar on intercultural and multicultural education, together with the International Service for Human Rights, to discuss ways in which the study of different cultures and their reciprocal influences are encouraged at national level. A wide range of educational policies were reviewed, leading to the analysis of common obstacles and challenges faced in the area of multicultural and intercultural education. The experts at the seminar adopted a series of recommendations to assist the Working Group in its future work. The recommendations, included in the report of the Working Group at its third session (E/CN.4/Sub.2/1997/18), focus on: the aim of intercultural and multicultural education; the need for interaction between Governments, specialized agencies and the Working Group to achieve education which will promote better understanding and mutual tolerance between all groups within society; and clarification of the content and scope of articles 4 (3) and 4 (4) on the Declaration.

29. At the conclusion of this third session, the Working Group recommended, inter alia, that a manual be prepared on the content and scope of the principles contained in the Declaration and on United Nations mechanisms for minority protection; that information on national, regional and international recourse mechanisms be gathered; that the treaty bodies and special rapporteurs give due regard to minority issues in carrying out their mandates; that closer collaboration be developed between the High Commissioner for Human Rights and the Working Group; that inter-agency cooperation on minorities be further promoted; and that regular seminars on specific subjects be held.